

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CHRISTOPHER GRUMBRECHT	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	
	:	No. 99-CV-4921
CROWN CONTROL	:	
CORPORATION,	:	
Defendant.	:	

**MEMORANDUM**

**GREEN, S.J.**

**March , 2001**

Before the court is Plaintiff's Motion to Trifurcate Trial pursuant to Fed. R. Civ. P. 42(b) and Defendant's Response thereto. For the following reasons, Plaintiff's motion will be granted.

**I. FACTUAL AND PROCEDURAL HISTORY**

On July 29, 1997, Plaintiff Christopher Grumbrecht alleges that he was struck by a forklift operated by a co-worker, Vincent Morasco, while they were working in a warehouse for the Grinnell Corporation ("Grinnell"). (Compl. ¶ 4.) As a result of the accident, Plaintiff allegedly suffered "serious personal injuries," some of which are permanent. (Compl. ¶ 8.) Plaintiff avers that the forklift, which was designed, manufactured and sold by Defendant Crown Control Corporation, caused his injuries due to a defective design. (Compl. ¶¶ 5 and 14.) Plaintiff filed a four count complaint against Defendant alleging Negligence, Strict Product Liability, Breach of Warranties, and Reckless and Willful Disregard. Defendant denied the allegations. Jurisdiction is premised on diversity of citizenship pursuant to 28 U.S.C. § 1332(a).

During the course of discovery, two employees of Grinnell, David E. Henn ("Henn") and

Daniel W. Goodwin (“Goodwin”), were deposed concerning Plaintiff’s alleged accident.<sup>1</sup> (See Henn’s Dep; Goodwin’s Dep.) Counsel for both parties were present. (See id.) Henn and Goodwin testified independently under oath that they witnessed Plaintiff twist his knee and injure himself while stepping off a forklift on July 29, 1997. (See Henn’s Dep. at 8; Goodwin’s Dep. at 7-8.) Upon Defendant’s motion, the court bifurcated the issues of liability and damages for trial. (See Order, January 11, 2001.) On February 14, 2001, Plaintiff filed a Motion to Trifurcate Trial. Defendant filed a response.

## **II. DISCUSSION**

Fed. R. Civ. P. 42(b) provides:

The court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy may order a separate trial of any claim . . . or of any separate issue . . . .

The decision of whether to try claims separately is made on a case by case basis and is within the informed discretion of the trial judge. Lis v. Robert Packer Hospital, 579 F.2d 819, 824 (3d Cir. 1978); Idzotic v. Pennsylvania R.R. Co., 456 F.2d 1228, 1230 (3d Cir. 1972).

In the present matter, Plaintiff moves to sever the trial into three phases: (1) whether Plaintiff was struck by a co-worker operating a forklift; (2) whether Defendant’s product was defectively designed; and (3) whether such defective design was a substantial factor in causing Plaintiff’s injuries. Plaintiff contends that trifurcation is appropriate in the present matter, because it eases complexity for the jury, serves judicial economy, and eases the parties’ litigation expenses. In addition, Plaintiff argues that trifurcation does not prejudice Defendant. Defendant

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<sup>1</sup>Henn was deposed on April 3, 2000, and Goodwin was deposed on April 7, 2000. (See Henn’s Dep; Goodwin’s Dep.)

opposes trifurcation unless all three phases can be tried before the same jury. Otherwise, Defendant argues that it would bear the burden of presenting fact witnesses to more than one jury. Plaintiff concedes Defendant's argument.

After considering the instant motion and the response thereto, I find that Plaintiff has met his burden and established that trifurcation is appropriate in the present matter. Plaintiff has demonstrated that trifurcation simplifies the issues for the jury, serves judicial economy and eases the parties' litigation expenses. Specifically, a jury decision addressing how Plaintiff's accident occurred will determine whether the jury must reach the issues of defective design and causation. If a jury determines that Plaintiff was not struck by a co-worker operating a forklift, the jury need not consider whether Defendant's product was defectively designed or whether Defendant's product substantially caused Plaintiff's injuries. Thus, it is appropriate to trifurcate the trial to separately determine whether Plaintiff was struck by a co-worker operating a forklift, whether Defendant's product was defectively designed and whether Defendant's product substantially caused Plaintiff's injuries.<sup>2</sup> Furthermore, to avoid prejudice to either party and further promote judicial economy, all three phases of the trial should be tried before the same jury. For the foregoing reasons, Plaintiff's Motion to Trifurcate Trial will be granted on condition that all three phases of the trial are tried before the same jury.

An appropriate Order follows.

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<sup>2</sup>At this time, the court does not intend to rule on the admissibility of evidence concerning the forklift that allegedly struck Plaintiff and/or its relevance to the issue of how Plaintiff's accident occurred. This decision does not prevent or encourage the parties to offer evidence concerning the aforementioned forklift during any of the three phases of trial.

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**ORDER**

**AND NOW**, this            day of March, 2001, upon consideration of Plaintiff's Motion to Trifurcate Trial and Defendant's Response, **IT IS HEREBY ORDERED** that Plaintiff's motion is **GRANTED** on condition that all three phases of the trial are tried before the same jury. **IT IS FURTHER ORDERED** that the January 11, 2001 Order granting bifurcation in this matter is vacated.

BY THE COURT:

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CLIFFORD SCOTT GREEN, S.J.